UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

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VIACOM INTERNATIONAL, INC., COMEDY PARTNERS, COUNTRY MUSIC TELEVISION, INC., PARAMOUNT PICTURES CORPORATION, and BLACK ENTERTAINMENT TELEVISION, LLC,

Plaintiffs,

vs. No. 07-CV-2103

YOUTUBE, INC., YOUTUBE, LLC, and GOOGLE, INC.,

Defendants.

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HIGHLY CONFIDENTIAL

VIDEOTAPED DEPOSITION OF
NICHOLAS SEET/AUDITUDE, INC.
SAN FRANCISCO, CALIFORNIA
TUESDAY, NOVEMBER 24, 2009

JOB NO. 18254

09:24:09 to that we did broadcast-based music identification,
09:24:16 and that turned into broadcast television and radio
09:24:21 ad tracking technology.
09:24:25 And then we changed our business model in
09:24:28 2006 to focus on online media.
09:24:38 Q. Okay. So -- so when -- when was the
09:24:41 company actually incorporated?
09:24:43 A. In 2006.
09:24:46 Q. And how -- how many employees did Auditude
09:24:49 have at the time that it opened for business in
09:24:51 2006?
09:24:56 MR. PLATZER: Object to the form.
09:24:57 MR. WILLEN: Excuse me.
09:24:59 MR. CARDON: So this is -- Mr. Platzer is
09:25:01 just making an objection for the record. So you can
09:25:04 go ahead and answer it.
09:25:05 BY MR. WILLEN:
09:25:06 Q. If you -- if you understand my question,
09:25:08 you can answer it.
09:25:09 A. Less than five.
09:25:10 Q. Okay. So at the time that the company was
09:25:13 incorporated in 2006, what would you say was the --
09:25:16 the primary business model at that time?
09:25:19 A. Tracking ads on TV and radio.

09:25:23 Q. Can you just describe briefly how that -- how that business model works?

09:25:30 A. We have a -- a nation-wide system of broadcast fingerprinters that would fingerprint television and radio signal, and we would be provided with media from advertisers and agencies to look for in that broadcast fingerprint.

09:25:56 So essentially we were tracking ads on TV and radio, and we could tell the advertiser or the agency exactly when and where their ads played, which was previously not something that -- that either they were not doing it, or they were doing it by hand, manually going through and listening and watching television, which was obviously not very accurate, and -- and quite labor-intensive.

09:26:23 Q. And -- and that business was based on an audio fingerprint technology that Auditude had developed?

09:26:32 A. That is correct.

09:26:32 Q. And was it you who developed that technology?

09:26:35 A. I was the CEO at the time that technology was developed, but I wasn't personally the -- the author of the technology.

09:26:42 Q. Who -- who was the actual author of the
09:26:44 technology?
09:26:45 A. We have a chief scientist named Sergiy
09:26:52 Bilobrov who is the -- as we say -- the rocket
09:26:57 scientist who developed the technology.
09:27:00 Q. At a high level of generality, can you
09:27:02 describe for me what the technology actually is?
09:27:05 A. Certainly --
09:27:06 MR. CARDON: And -- and I'll object. It's
09:27:07 vague as to time.
09:27:08 MR. WILLEN: Sure.
09:27:08 BY MR. WILLEN:
09:27:08 Q. In 2006, the time that the company was
09:27:12 incorporated.
09:27:12 A. Right. So digital fingerprinting is an
09:27:19 area of audio science or video or media science, I
09:27:22 would say, that extracts a set of key frequency
09:27:28 characteristics from the signal, and assembles
09:27:35 those -- extracts from those key frequency
09:27:39 characteristics, or compiles them into a signature,
09:27:42 as it were, a digital fingerprint.
09:27:46 This fingerprint can then be utilized to
09:27:49 find that same signature in media, even if it has
09:27:53 been highly altered, distorted, compressed.

09:28:00 The key to a good fingerprinting system is
09:28:05 being very accurate, very robust to noise and
09:28:11 distortions, and very fast.
09:28:16 Q. So in -- at the time the company opened,
09:28:20 was the fingerprinting technology that Auditude had
09:28:23 developed being used for anything else other than
09:28:25 what you described as tracking advertisements on
09:28:29 broadcast media?
09:28:30 A. At -- at what time?
09:28:31 Q. Yeah, 2006, the company -- when the
09:28:34 company was founded.
09:28:36 A. We were doing ad tracking, but we were
09:28:41 also doing music identification, based on radio air
09:28:47 play.
09:28:48 Q. Okay. Were you -- were you also doing
09:28:51 Internet content monitoring at that time?
09:28:53 A. Not at -- not at that time, no.
09:28:56 Q. Okay. But -- but I think you testified
09:28:58 earlier that there -- there came a time when
09:29:00 Auditude started getting in the business of Internet
09:29:03 content monitoring?
09:29:04 A. That is correct.
09:29:05 Q. Now, when was the first time that Auditude
09:29:08 had the idea of shifting its business to focus on

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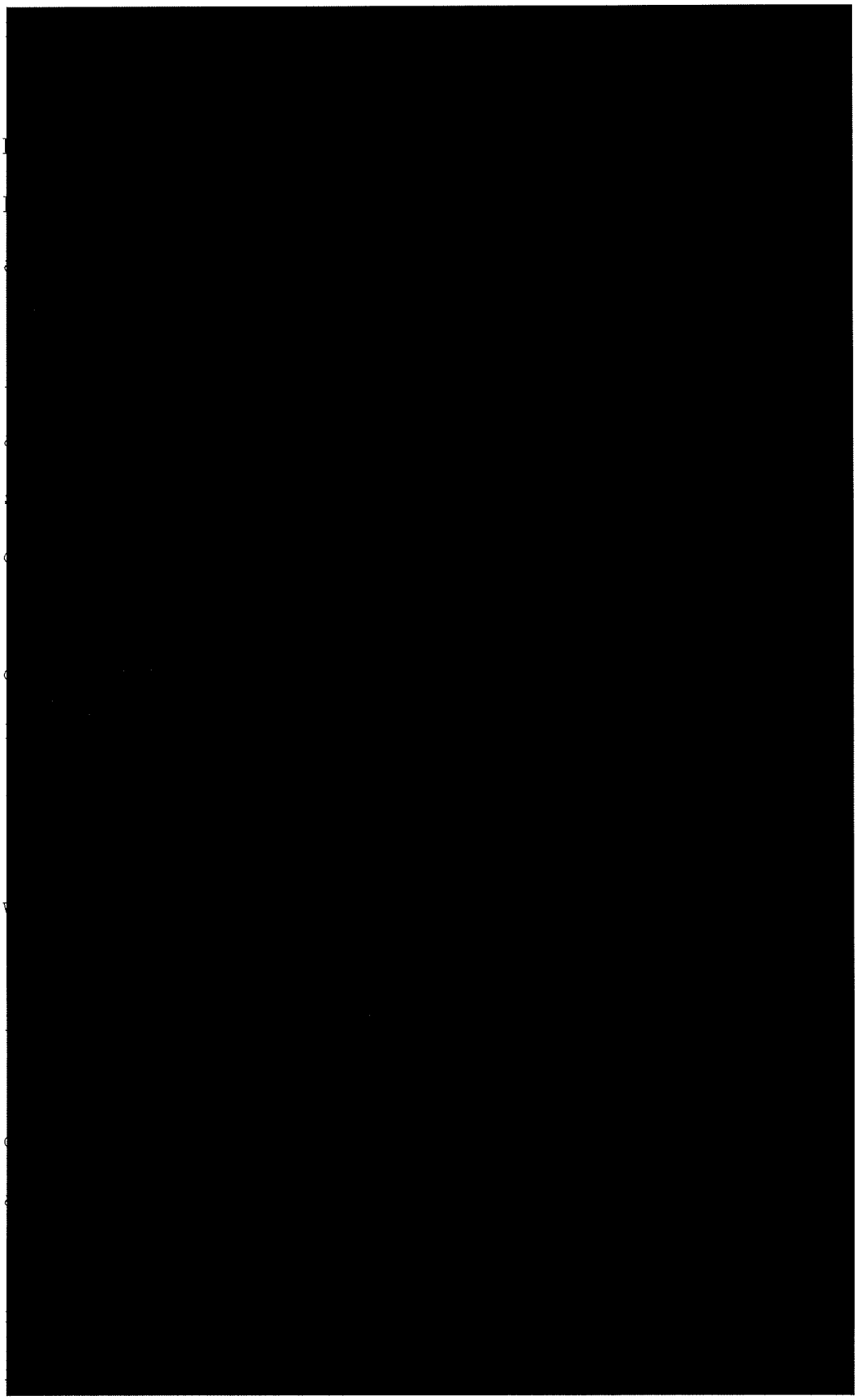

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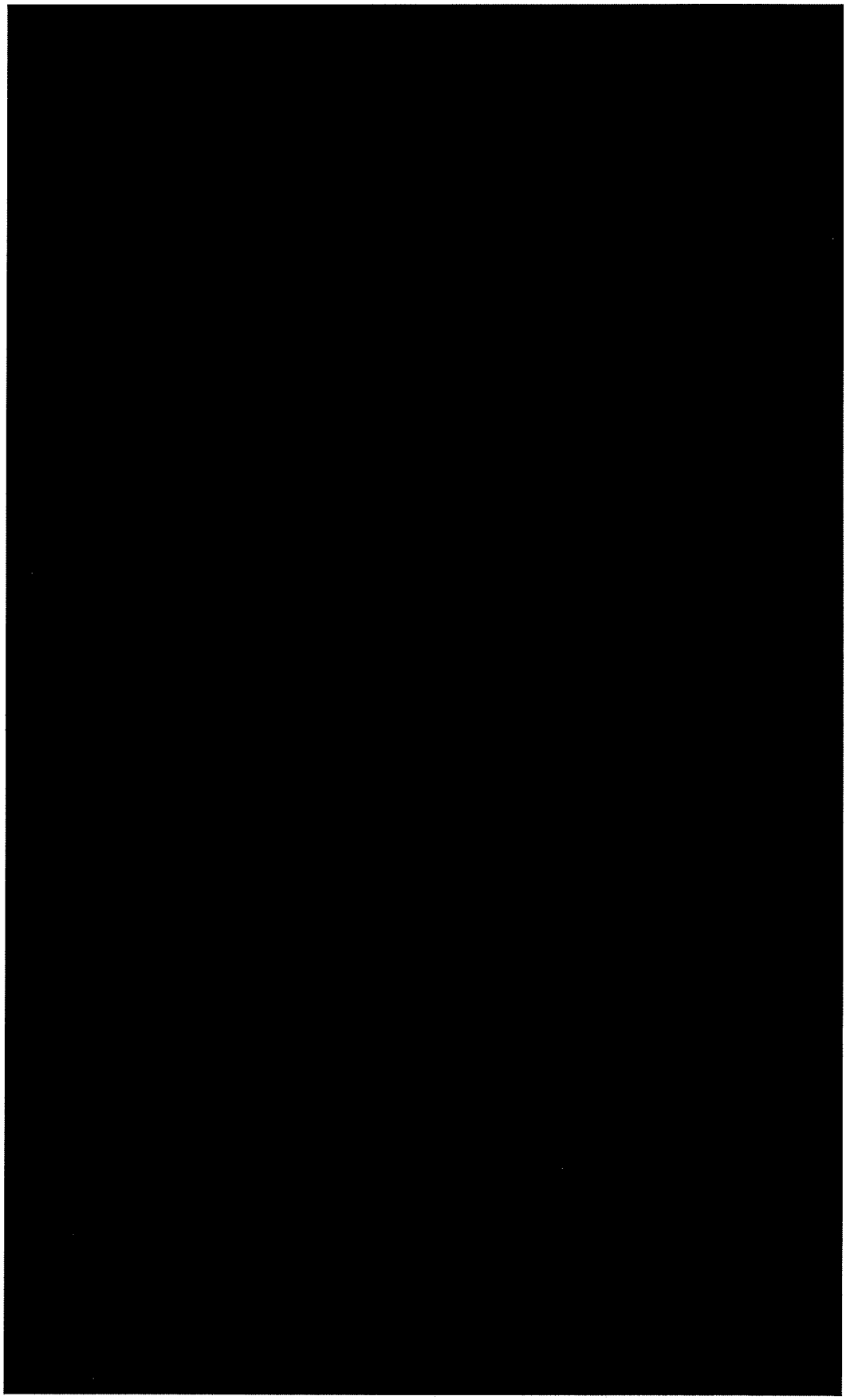


10:45:06 A. Yes.

10:45:07 Q. So was there a specific discussion that you recall about using Auditude to monetize Viacom content on YouTube?

10:45:18 A. Not specifically on YouTube. It was a general statement that they were interested in that data for monetization, amongst other things.

10:45:26 Q. And what were the other things, in addition to monetization, that Viacom was interested?

10:45:32 A. I would be assuming that copyright enforcement was one of them, and that may have been mentioned at that meeting. I don't recall, specifically.

10:45:46 Q. Did Viacom, in -- in those meetings that you had, ever tell Auditude that it was important to Viacom that Auditude develop a video-based fingerprinting technology, in addition to its audio-based fingerprinting technology?

10:46:03 A. In the initial meetings, no.

10:46:05 Q. In any subsequent meetings?

10:46:09 A. Yes. The subsequent meetings pointed out that having video fingerprinting would make the manual review process of the detections much more

10:46:24 efficient.

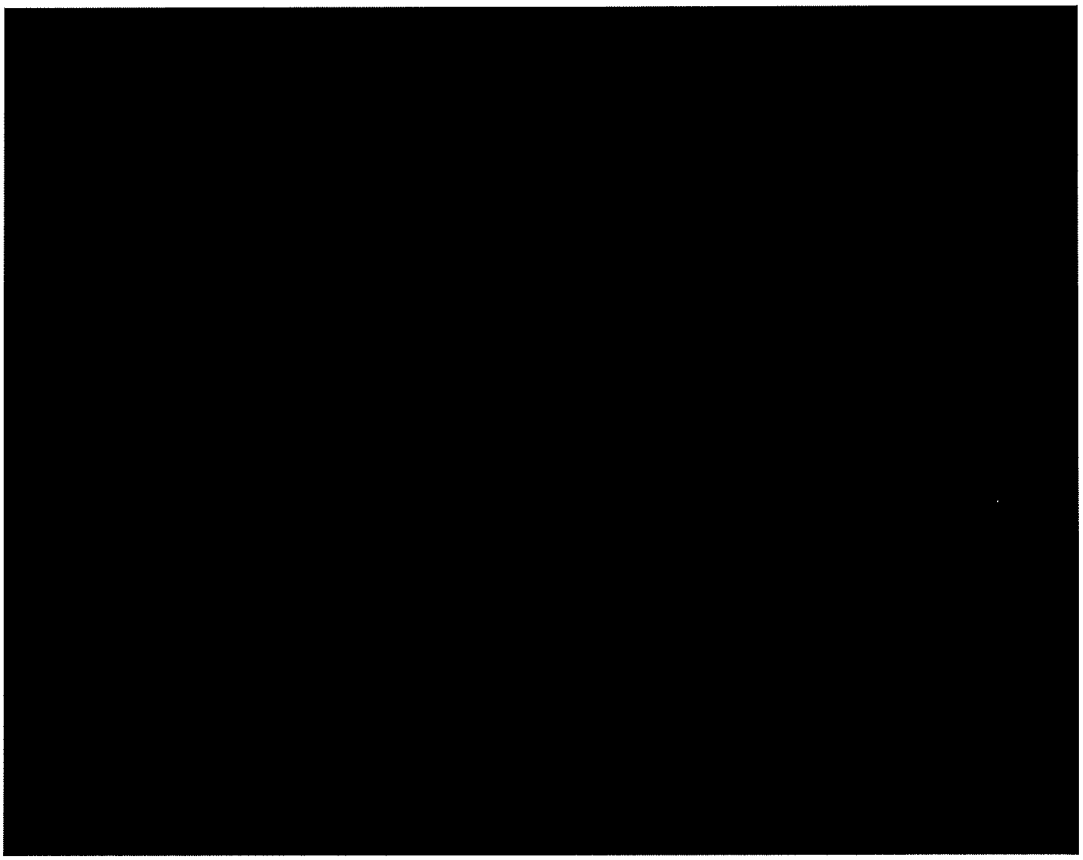
10:46:26 So, in other words, video fingerprinting

10:46:30 was looked at as a significant time saver for the

10:46:35 manual review process of the Auditude results.

10:46:38 Q. And why was that?

10:46:43 [redacted]



10:48:39 Q. All right. So Viacom and Auditude
10:48:42 ultimately signed a contract for Viacom to use
10:48:45 Auditude's CopyID tool?
10:48:48 A. That's correct.
10:48:53 MR. WILLEN: Okay. Let's actually
10:48:55 introduce that agreement, so we can all be on the
10:48:59 same page. This will be Exhibit --
10:49:03 THE REPORTER: 7.
10:49:04 MR. WILLEN: Exhibit 7.
10:49:04 (Deposition Exhibit Number 7 was marked
10:49:04 for identification.)